6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2018-0747; FRL-6934.1-01-OAR]

RIN 2060-AV38

National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing amendments to the National Emission Standards for Hazardous Air Pollutants for Miscellaneous Coating Manufacturing (MCM NESHAP) facilities, as required by the Clean Air Act (CAA). In order to complete the required technology review that was originally promulgated on August 14, 2020, the EPA is proposing inorganic hazardous air pollutant (HAP) standards for process vessels.

DATES: *Comments*. Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Public hearing: If anyone contacts us requesting a public hearing on or before **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] by 5:00 p.m. ET**, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-HQ-OAR-2018-0747, by any of the following methods:

- Federal eRulemaking Portal: *https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- Email: *a-and-r-docket@epa.gov*. Include Docket ID No. EPA-HQ-OAR-2018-0747 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2018-0747.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2018-0747, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand/Courier Delivery: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m. – 4:30 p.m., Monday – Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/*, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Ms. Angie Carey, Sector Policies and Programs Division (E143-01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2187; fax number: (919) 541-0516; and email address: *carey.angela@epa.gov*.

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. Please note that because of current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov*. If requested, the virtual hearing will be held on **[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The hearing will convene at 10:00 a.m. Eastern Time (ET) and will conclude at 5:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards*.

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing no later than 1 business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards* or contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov*. The last day to pre-register to speak at the hearing will be **[INSERT DATE 12 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards*.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to *carey.angela@epa.gov*. The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards*. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates.

If you require the services of a translator or a special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2018-0747. All documents in the docket are listed in *https://www.regulations.gov/*. Although listed, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in Regulations.gov or in hard copy at the EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2018-0747. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/*, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*.

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be

free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets*.

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/*. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in the *Instructions* section of this document. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.*, Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov*, and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2018-

0747. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. Throughout this document the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

1-BP	1-bromopropane
BLDS	bag leak detection system
CAA	Clean Air Act
CBI	Confidential Business Information
CFR	Code of Federal Regulations
EJ	Environmental Justice
EPA	Environmental Protection Agency
gr/dscf	grains per dry standard cubic feet
HAP	hazardous air pollutant(s)
ICR	Information Collection Request
km	kilometer
MACT	maximum achievable control technology
MCM	miscellaneous coating manufacturing
NESHAP	national emission standards for hazardous air pollutants
NTTAA	National Technology Transfer and Advancement Act
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management and Budget
PM	particulate matter
RFA	Regulatory Flexibility Act
RTR	residual risk and technology review
$\mu g/m^3$	microgram per cubic meter
UMRA	Unfunded Mandates Reform Act
UPL	upper prediction limit

Organization of this document. The information in this preamble is organized as follows below. Section III of this preamble summarizes the results of the inorganic HAP emissions assessment. Section IV of this preamble describes the majority of the Agency's rationale for the actions proposed in this preamble: sections IV. A. and B. summarize changes we are proposing,

including regulatory language changes related to the inorganic HAP emissions requirements; and section IV.C. summarizes our rationale for the compliance dates we are proposing.

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source categories that are the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected

sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA-450/3-91-030, July 1992), the Manufacture of Paints, Coatings, and Adhesives source category "is any facility engaged in their manufacture without regard to the particular end-uses or consumers of such products. The manufacturing of these products may occur in any combination at any facility." This source category has since been renamed Miscellaneous Coating Manufacturing (MCM).

Table 1. NESHAP and Industrial Source Categories Affected By This Proposed Action

Source Category and NESHAP	NAICS Code[1]
Miscellaneous Coating Manufacturing Industry	3255, 3259

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/stationary-sources-air-pollution/miscellaneous-coating-manufacturing-national-emission-standards*. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version of the proposal and key technical documents at this same website.

A redline strikeout version of the rule showing the edits that would be necessary to incorporate the changes proposed in this action is presented in the memorandum titled: Proposed Redline Strikeout Edits, Subpart HHHHH: Miscellaneous Coatings Manufacturing, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2018-0747).

II. Background

A. What is the statutory authority for this action?

This action proposes to amend the National Emission Standards for Hazardous Air Pollutants (NESHAP): Miscellaneous Coating Manufacturing, which was previously amended when the EPA finalized the Residual Risk and Technology Review on August 14, 2020.[1]

In the *Louisiana Environmental Action Network* v. *EPA (LEAN)* decision issued on April 21, 2020, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) held that the EPA has an obligation to address unregulated emissions from a source category when the Agency conducts the 8-year technology review required by Clean Air Act (CAA) 112(d)(6).[2] This proposed rule addresses currently unregulated emissions of HAP from the MCM source category. Inorganic HAP can be emitted from sources in the MCM category as part of a source's particulate matter (PM) emissions, containing metal HAP. These emissions can occur when raw materials in powder form are added to the paint mixing vessels. Therefore, the amendments proposed here define the maximum achievable control technology (MACT) standard for inorganic HAP, or metal HAP, within the MCM source category pursuant to CAA sections 112(d)(2) and (3).

B. What is this source category and how does the current NESHAP regulate its organic and inorganic HAP emissions?

As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990*[3] and *Documentation for Developing the Initial Source Category List*, Final Report[4], the "manufacture of paints, coatings, and adhesives" source category "is any facility engaged in their manufacture without regard to the particular end-uses

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[1] 85 FR 49,724, Aug. 14, 2020.
[2] *Louisiana Environmental Action Network* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020) *("LEAN")*.
[3] See 57 FR 31,576, July 16, 1992.
[4] See EPA-450/3-91-030, July 1992, available at *https://nepis.epa.gov/Exe/ZyNET.exe/2000MTDN.TXT?ZyActionD=ZyDocument&Client=EPA&Index=1991+Thru+1994&Docs=&Query=&Time=&EndTime=&SearchMethod=1&TocRestrict=n&Toc=&TocEntry=&QField=&QFieldYear=&QFieldMonth=&QFieldDay=&IntQFieldOp=0&ExtQFieldOp=0&XmlQuery=&File=D%3A%5Czyfiles%5CIndex%20Data%5C91thru94%5CTxt%5C00000015%5C2000MTDN.txt&User=ANONYMOUS&Password=anonymous&SortMethod=h%7C-&MaximumDocuments=1&FuzzyDegree=0&ImageQuality=r75g8/r75g8/x150y150g16/i425&Display=hpfr&DefSeekPage=x&SearchBack=ZyActionL&Back=ZyActionS&BackDesc=Results%20page&MaximumPages=1&ZyEntry=1&SeekPage=x&ZyPURL.*

or consumers of such products. The manufacturing of these products may occur in any combination at any facility."

The MCM source category includes the collection of equipment that is used to manufacture coatings at a facility. MCM operations also include cleaning operations. Coatings are materials such as paints, inks, or adhesives that are intended to be applied to a substrate and consist of a mixture of resins, pigments, solvents, and/or other additives, where the material is produced by a manufacturing operation where materials are blended, mixed, diluted, or otherwise formulated. Coatings do not include materials made in processes where a formulation component is synthesized by chemical reaction or separation activity and then transferred to another vessel where it is formulated to produce a material used as a coating, where the synthesized or separated component is not stored prior to formulation.

The equipment controlled by the MCM NESHAP includes process vessels, storage tanks for feedstocks and products, equipment leak components (pumps, compressors, agitators, pressure relief devices (PRDs), sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems), wastewater tanks, heat exchangers, and transfer racks.

The current NESHAP regulates process vessels based on the volume of the process vessel and the maximum true vapor pressure of the organic HAP processed or stored. Control requirements range from the use of tightly fitted lids on process vessels to the capture and reduction of organic HAP emissions through the use of add-on controls (*i.e.*, a flare, oxidizer, or condenser).

The current NESHAP does not regulate metal HAP from process vessels. During the addition of raw materials in powder form to paint mixing vessels, emissions of metal HAP in the form of PM emissions may occur and are typically collected and routed to a PM control device (*i.e.*, baghouse, fabric filters, cartridge filters, or scrubbers). This proposal addresses the previously unregulated metal HAP emissions from this category and proposes MACT for emission sources of metal HAP.

C. *What data collection activities were conducted to support this action?*

Although no formal data collection activity was conducted, the EPA contacted industry representatives and obtained supplemental information about the emission processes, control technologies, and speciation profiles for metal HAP. New information provided by the American Coatings Association on four area source PM performance tests is available in the docket for this action, Docket ID: EPA-HQ-OAR-2018-0747.

D. What other relevant background information and data are available?

For the MCM source category, we have limited information for metal HAP. We reviewed the 2017 National Emissions Inventory (NEI) for the 42 facilities in the MCM source category and identified emissions of manganese, antimony, nickel, lead, cobalt, chromium III, chromium VI, cadmium, and arsenic compounds, all inorganic HAP, and all metals. Based on discussions with industry, these reported metals emissions are not based on performance test results; rather, they are based on loading rates, emissions factors, and engineering calculations. The EPA has determined that, in this case, it is appropriate to use PM emissions as a surrogate for metal HAP emissions from process vessels in which dry materials (*e.g.*, pigments) containing metal HAP are added to the process vessels. In MCM, "metal HAP" is defined as including compounds of manganese, antimony, nickel, lead, cobalt, chromium III, chromium VI, cadmium, and arsenic compounds. MCM sources would be subject to this proposed rule if they emit any of these metal HAP.

The EPA used information from title V permits for each MCM facility, performance tests for area source coating manufacturing facilities, and vendor specifications for baghouses and cartridge filters in this industry to determine the MACT emission limit for metal HAP. The American Coatings Association provided the EPA with performance tests for PM emission control devices from process vessels from four area source paint manufacturing facilities. These four performance tests results are available in the docket for this action, Docket ID: EPA-HQ-OAR-2018-0747. We could not locate PM stack test information for any of the 42 major source

coating manufacturing facilities, but the four area sources' test data are from similar equipment used in similar processes and the EPA has determined that the data are a reasonable representation of the control achieved by the best performers in the major source coatings manufacturing source category. Emissions from the four source tests ranged from 0.003 to 0.0138 gr/dscf PM, based on EPA Method 5 testing. Results from these source tests did not include measurement of metal HAP. The EPA also had discussions with baghouse and cartridge filter vendors who service this industry, and they provided performance specifications indicating that some systems could achieve PM emissions on the order of 0.002 to 0.005 gr/dscf, which is on the same order as the values determined from the sources tests.

The EPA also reviewed title V permits of the 42 currently affected MCM sources and found that seven hold permits with PM limits.[5] The limits in the MCM permits ranged from 0.03 to 0.3 gr/dscf from seven facilities using cartridge filters, baghouses, fabric filters, and bag filters. However, these limits are not supported by any measurement or performance test information. Further, facilities estimated their emissions of metal HAP using an assumed composition of PM.

III. Analytical Procedures and Decision-Making

The MACT floor limit for PM from existing sources is calculated based on the average performance of the best-performing units in each category or subcategory and on a consideration of these units' variability. The MACT floor for new sources is based on the single best-performing source, with a similar consideration of that source's variability. The MACT floor for new sources cannot be less stringent than the emissions performance that is achieved in practice by the best-controlled similar source. To account for variability in the operation and emissions, we calculated the MACT floors using the 99 percent Upper Predictive Limit (UPL) using the

[5] See *Summary of Data Collected for the Miscellaneous Coatings Manufacturing Risk and Technology Review Amendments*, available in the docket for this action.

available stack test information. We note that the MACT floor for new units is based on a limited data set.[6]

The UPL approach addresses variability of emissions data from the best-performing source or sources in setting MACT standards. The UPL also accounts for uncertainty associated with emission values in a dataset, which can be influenced by components such as the number of samples available for developing MACT standards and the number of samples that will be collected to assess compliance with the emission limit. The UPL approach has been used in many environmental science applications. As explained in more detail in the UPL Memo cited above, the EPA uses the UPL approach to reasonably estimate the emissions performance of the best-performing source or sources to establish MACT floor standards.

As described above, we obtained additional data on PM emissions from area sources in the paints and coatings industry. Specifically, we obtained PM data from four facilities that are area source emissions for PM. This proposal is based on this data and the EPA's determination that, due to the similarities in processes and emissions controls, this data is representative of the best performers in the MCM source category.

IV. Analytical Results and Proposed Decisions

A. Proposed Decisions for Inorganic HAP Standards

a. How did we develop the MACT standard?

In reviewing available information, we found no performance test data for metal HAP emissions. However, we reviewed information from the paints and allied products area source standard that indicated the composition of metal HAP from PM was estimated to be approximately 0.13 weight percent. Furthermore, one facility in the MCM source category reported that an analysis of its dust collector dust indicated a value of 0.12 weight percent

[6] For more information regarding the general use of the UPL and why it is appropriate for calculating MACT floors, see *Use of Upper Prediction Limit for Calculating MACT Floors* (UPL Memo), which is available in the docket for this action. For more information on the calculation of MCM-specific MACT floor limits, see *UPL for Area Source Paint.xlsx*, also available in the docket for this action.

chromium compounds. Assuming a typical metal HAP weight fraction of PM of approximately 0.12 weight percent, metal HAP emissions from the outlet of a PM control device emitting on the order of 0.003 to 0.0138 gr/dscf would result in metal HAP emissions approaching or below the in-stack detection limit of the analysis method for total selected metals, EPA Method 29.[7] (See *EPA Springdale Chromium Q.docx* and *Data and Procedure for Handling Below Detection Level Data in Analyzing Various Pollutant Emissions Databases for MACT and RTR Emissions Limits* in the MCM Docket ID: EPA-HQ-OAR-2018-0747 and *Model Plants for Paint and Allied Products Manufacturing Area Sources* in the Paints and Allied Products Docket ID: EPA-HQ-OAR-2008-0053.) Therefore, while it is clear that some of the PM emissions are metal HAP, it is difficult to set a limit for specific metal HAP because controls achieving low PM loading rates (*e.g.,* the best performers) will likely result in concentrations of metal HAP below limits of detection. However, measurement of PM is feasible and represents the best performers and, therefore, we are using PM as a surrogate. As we do not have measurements of metal HAP, we are establishing standards for filterable PM. Metal HAP are non-volatile metals that are a part of filterable PM. While the EPA method selected (EPA Method 5) is for filterable PM, we note that we are testing for filterable, not condensable, PM. We also note that if a source should use solid additives that do not contain metal HAP, then the source is not required to comply with this standard. Likewise, the PM standard does not apply to pigments and other solids that are in paste, slurry, or liquid form, because metal HAP emissions and PM emissions are not expected to occur when using such pigments and other solids because they are not readily dispersed in the air.

To support the proposed use of PM as a surrogate for certain non-mercury HAP metals, we considered the holding in *National Lime v. EPA*, 233 F.3d 625 (D.C. Cir. 2000). In considering whether the EPA may use PM, a criteria pollutant, as a surrogate for metal HAP, the D.C. Circuit stated that the EPA "may use a surrogate to regulate hazardous pollutants if it is

[7] For example, the average RDL for chromium compounds in an EPA Method 29 train is 2.5 µg/dscm.

'reasonable' to do so," *id*. at 637, and laid out criteria for determining whether the use of PM as a surrogate for non-mercury metal HAP was reasonable. The court found that PM is a reasonable surrogate for HAP if: (1) "HAP metals are invariably present" in the source's PM," *id.;* (2) the "source's PM control technology indiscriminately captures HAP metals along with other particulates," *id.* at 639; and (3) "PM control is the only means by which facilities 'achieve' reductions in HAP metal emissions," *id.* If these criteria are satisfied and the PM emission standards reflect what the best sources achieve—complying with CAA section 7412(d)(3)—"EPA is under no obligation to achieve a particular numerical reduction in HAP metal emissions." *Id.*

While a requirement to meet all of the criteria laid out in the court opinion has never been established, we considered those criteria in evaluating whether the proposed surrogate standards for the MCM source category are reasonable and concluded that they are. Specifically, since the proposed standards would only apply if metal HAP are present in the materials being processed, the first criteria is satisfied. The types of controls used in the industry indiscriminately capture HAP metals along with other particulates, thus satisfying the second criteria. Finally, for each type of product, means other than air pollution controls are not used to reduce emissions. Therefore, we conclude that it is reasonable to use PM as a surrogate for non-mercury HAP metals.

To account for variability in the operation and emissions, the stack test data were used to calculate the MACT floor limits based on the 99 percent UPL. The UPL for new sources was determined to be 0.0079 gr/dscf, and the UPL for existing sources was determined to be 0.014 gr/dscf. We also conducted a beyond-the-floor analysis, where we determined that requiring all facilities to go beyond either limit would not be cost-effective. We based this conclusion on cost information developed for the paints and allied products area source standard, see EPA-HQ-OAR-2008-0053-0072. All facilities in the source category currently have PM controls in place using existing baghouses, fabric filters, or cartridge filters. The estimated cost to completely

replace these filters with new filters would be $695,142 in capital costs for all 42 facilities, and the incremental reductions from moving beyond the proposed 0.014 gr/dscf limit to 0.002, the lowest value provided by a vendor, would result in a cost-effectiveness for PM of about $3800/ton, and over $3.5 million/ton metal HAP. Therefore, the beyond-the-floor options were not considered to be cost-effective.

As explained above, the MACT floor for new sources cannot be less stringent than the emissions performance that is achieved in practice by the best-controlled similar source. The EPA performed a variability analysis similar to that used for existing sources to calculate a 99 percent UPL using the test runs from the lowest emitting source to derive the new source MACT floor limit.

b. Performance Testing

We are proposing, based on these limits, that existing sources demonstrate initial compliance with the PM emissions limit of 0.014 gr/dscf and new sources demonstrate initial compliance with the PM emissions limit of 0.0079 gr/dscf. We are proposing to revise Table 1 of 40 CFR part 63 subpart HHHHH to include the emission limits that apply to process vessels. Facilities will be required to comply continuously with the standards during all operations that emit metal HAP. Consistent with the *Paints and Allied Products Manufacturing: NESHAP for Area Sources*, this requirement does not apply to pigments and other solids that are in paste, slurry, or liquid form.

As stated in section III. above, controls achieving low PM loading rates (*e.g.*, the best performers) will likely result in concentrations of metal HAP below limits of detection, particularly with materials with very low concentrations of metal HAP. Therefore, we have also provided owners and operators the ability to demonstrate that materials containing inorganic HAP metals below certain levels are not subject to these standards. We are proposing to add to the list of definitions to this subpart, *material containing metal HAP*, to mean a material containing compounds of manganese, antimony, nickel, lead, cobalt, chromium, cadmium, and

arsenic compounds, in amounts greater than or equal to 0.1 percent by weight as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material.

c. Monitoring

Under this proposal, continuous compliance with the emission limits would be demonstrated through control device parameter monitoring coupled with periodic emissions testing. Appropriate operating parameters would include those recommended by the control device manufacturer as appropriate for the control device, including but not limited to pressure drop, scrubber water supply pressure, and/or flow rate. Each operating parameter for a PM control device would be established during emissions performance testing in which the results demonstrate compliance; the average parameter value recorded during the test becomes the facility's operating limit and would be recorded continuously using a continuous parameter monitoring system (CPMS). The operating limit could be reset based on results obtained during subsequent performance tests that demonstrate compliance with the emissions limit. Consistent with NESHAP general provisions, a source owner would be required to operate and maintain the source, its air pollution control equipment, and its monitoring equipment in a manner consistent with safety and good air pollution control practices for minimizing emissions, and its control device in a manner consistent with good engineering control practice, including operating and maintaining equipment in accordance with manufacturer's recommendations. Source owners would be required to prepare and keep records of calibration and accuracy checks of the CPMS to document proper operation and maintenance of the monitoring system. Note that an acceptable example of a CPMS is a bag leak detection system (BLDS) used in conjunction with a baghouse. A source owner would determine the average BLDS value obtained during concurrent emission performance testing, record the value during source operation, and maintain that value between emissions performance tests, while conducting quality assurance checks.

d. Recordkeeping and Reporting

Under this proposal, a source owner would be required to submit semi-annual compliance summary reports which document both compliance with the requirements of this rule and any deviations from compliance with any of those requirements.

Owners and operators would be required to maintain the records specified by 40 CFR 63.10 and, in addition, would be required to maintain records of all inspection and monitoring data, including:

- Records of PM control device operating parameters. For fabric filters without BLDS, the pressure drop across the baghouse is would be included as an operating parameter.
- Records of calibration and accuracy checks for the CPMS.
- Records of test results to demonstrate initial and ongoing compliance with the PM standard.
- If no metal HAP present, records showing a Method 29 test result of no metal HAP emissions, or documentation of formulation data for added dry materials.

B. Adding 1-Bromopropane to List of HAP

On January 5, 2022, the EPA published in the *Federal Register* (87 FR 393) a final rule amending the list of hazardous air pollutants (HAP) under the Clean Air Act (CAA) to add 1-bromopropane (1-BP) in response to public petitions previously granted by the EPA.
For this source category, we do not believe that the inclusion of 1-BP as an organic HAP would have affected the representativeness of the MACT standard. Owners and operators of emission sources regulated by the MACT, including process vessels, wastewater, equipment leaks, and storage may comply with these standards by using a control device or system that achieves a percent reduction and is not HAP-specific. Therefore, we are proposing to include 1-BP in *Table 7 Partially Soluble HAP* and *Table 11 List of Hazardous Air Pollutants That Must Be Counted Toward Total Organic HAP Content If Present at 0.1 Percent or More by Mass* of this subpart to include 1-BP. We are taking comment on these changes, as well as requesting comment on the use of 1-BP emissions in this source category.

C. What compliance dates are we proposing?

Amendments to the MCM NESHAP proposed in this rulemaking for adoption under CAA section 112(d)(2) and (3) are subject to the compliance deadlines outlined in the CAA under section 112(i). For existing sources, CAA section 112(i)(3) provides there shall be compliance "as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard . . . ." subject to certain exemptions further detailed in the statute.[8] In determining what compliance period is as "expeditious as practicable," we consider the amount of time needed to plan and construct projects and change operating procedures. As provided in CAA section 112(i), all new affected sources would comply with these provisions by the effective date of the final amendments to the MCM NESHAP or upon startup, whichever is later.

All affected facilities would have to continue to meet the current provisions of 40 CFR part 63, subpart HHHHH until the applicable compliance date of the amended rule. The final action is not expected to be a "major rule" as defined by 5 U.S.C. 804(2), so the effective date of the final rule will be the promulgation date as specified in CAA section 112(d)(10).

Because these facilities have controls in place already, we expect the sources to require time to conduct applicability reviews, conduct performance testing and implement monitoring to comply with the revised provisions. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements related to the PM provisions, the EPA considers a period of 1 year to be the most expeditious compliance period practicable and, thus, is proposing that existing affected sources be in compliance with 40 CFR part 63, subpart HHHHH's revised PM provisions within 1 year of this final rule's effective date.

Therefore, for all affected sources that commence construction or reconstruction on or before [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**], we are proposing that it is necessary to provide 1 year after the effective date of the final rule (or upon

[8] *Association of Battery Recyclers v. EPA*, 716 F.3d 667, 672 (D.C. Cir. 2013) ("Section 112(i)(3)'s 3-year maximum compliance period applies generally to any emission standard . . . promulgated under [section 112]" (brackets in original)).

startup, whichever is later) for owners and operators to comply with the PM provisions. For all affected sources that commenced construction or reconstruction after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**], we are proposing that owners and operators comply with the amended PM provisions by the effective date of the final rule (or upon startup, whichever is later). For all affected sources, we are proposing that owners and operators comply with the amendments to include 1-BP in Table 7 and Table 11 provisions by the effective date of the final rule**.**

We solicit comment on these proposed compliance periods, and we specifically request submission of information from sources in this source category regarding specific actions that would need to be undertaken to comply with the proposed amended provisions and the time needed to make the adjustments for compliance with any of the revised provisions. We note that information provided may result in changes to the proposed compliance dates.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

Currently, 42 major sources subject to the MCM NESHAP are operating in the United States. The affected source under the NESHAP is the facility-wide collection of equipment used to manufacture coatings and includes all process vessels; storage tanks for feedstocks and products; components such as pumps, compressors, agitators, PRDs, sampling connection systems, open-ended valves or lines, valves, connectors, and instrumentation systems; wastewater tanks; transfer racks; and cleaning operations. A coating is defined as material such as paint, ink, or adhesive that is intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives, where the material is produced by a manufacturing operation and materials are blended, mixed, diluted, or otherwise formulated.

B. What are the air quality impacts?

We project no emissions reductions of PM from the MCM source category because all facilities reporting PM emissions are already equipped with particulate controls. This action

proposes first-time standards for metal HAP that will limit emissions and require that controls are effective.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*e.g.*, increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment. The proposed amendments would have no effect on the energy needs of the affected facilities and would, therefore, have no indirect or secondary air emissions impacts.

C. What are the cost impacts?

All existing MCM facilities are expected to be achieving currently the level of control required by the proposed standards. That is, we believe that all existing sources currently route vent streams from specified equipment through a PM control device such that PM emissions are reduced to at least 0.014 gr/dscf. Although this proposed rule contains requirements for new sources, we are not aware of any new sources being constructed now or planned in the next year, and, consequently, we did not estimate any cost impacts for new sources. Therefore, there are no capital costs of this proposed rule. The estimated annualized cost of the proposed rule would be $305,000 per year. The annualized costs account for submitting the notifications and for control device performance testing, inspections, monitoring, recordkeeping, and reporting for 13 facilities that are expected to have add-on controls. As stated in the technical support document, *Summary of Data Collected for the MCM RTR Amendments,* there are 13 facilities that reported metal HAP to the 2017 NEI, therefore, we expect only 13 facilities to incur costs. This document is available in the docket for this action. No other capital costs are associated with this proposed rule, and no additional operational and maintenance costs are expected.

D. What are the economic impacts?

For the proposed rule, the EPA estimated the cost of performing an initial performance test and annual control device inspections at affected facilities. To assess the potential economic

impacts, the expected annual cost is compared to the total sales revenue for the ultimate owners of affected facilities. For this rule, the expected annual cost is $7,300 for each facility, with an estimated nationwide annual cost of $305,000 (2019$). The 42 affected facilities are owned by 27 parent companies, and the total costs associated with the proposed amendments are expected to be less than one percent of annual sales revenue per ultimate owner. These costs account for 13 facilities expected to have on control for metal HAP, as well as all 42 facilities to become familiar with the rule. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

The EPA also prepared a small business screening assessment to determine if any of the identified affected entities are small entities, as defined by the U.S. Small Business Administration. This analysis is available in the Docket for this action, Docked ID No. EPA-HQ-OAR-2018-0747-0020. Two of the affected facilities are owned by small entities. However, since the costs associated with the proposed amendments for these two affected small entities are expected to be less than one percent of annual sales revenue per ultimate owner, there are no significant economic impacts on a substantial number of small entities from these proposed amendments.

Information on our cost impact estimates on the sources in the MCM source category is available in the docket for this proposed rule.

E. What analysis of environmental justice did we conduct?

Consistent with EPA's commitment to integrating environmental justice (EJ) in the Agency's actions, and following the directives set forth in multiple Executive Orders, the Agency has carefully considered the impacts of this action on communities with EJ concerns. For MCM facilities, the demographic screening analysis shows the population of people of color is similar to the national average. The EPA expects that the National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing Technology Review will limit emissions and require that controls are effective, including in communities already overburdened

by pollution, which are often minority, low-income and indigenous communities. This action requires facilities with process vessels emitting metal HAP, which consist of PM emissions from addition of raw materials in powder form to paint mixing vessels, to demonstrate compliance with PM emissions of 0.014 gr/dscf for existing sources and 0.0079 gr/dscf for new sources. Following is a more detailed description of how the Agency considers EJ in the context of regulatory development, and specific actions taken to address EJ concerns for this action.

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms; specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 is intended to advance racial equity and support underserved communities through federal government actions (86 FR 7009, January 25, 2021). The EPA defines EJ as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies".[9] The EPA further defines fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies". In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution.

Based on these analyses of potentially exposed populations and actions taken to reduce adverse human health impacts, the EPA anticipates that this action is not likely to result in disproportionate impacts on minority populations and/or low-income populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) and referenced in Executive Order

[9] *https://www.epa.gov/environmentaljustice*

13985 (86 FR 7009, January 25, 2021). The EPA remains committed to engaging with communities and stakeholders throughout the development of air pollution regulations.

To examine the potential for any EJ issues that might be associated with MCM facilities, we performed a demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 kilometers (km) and 50 km of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups.

The results of the demographic analysis (see Table 2) indicate that, for populations within 5 km of the 42 major source MCM facilities, the percent of the population who are people of color (being the total population minus the white population) is similar to the national average (41 percent versus 40 percent). However, the percent African American population is higher than the national percent (20 percent versus 12 percent nationally), whereas the percent Other/Multiracial (6 percent versus 8 percent nationally) and Hispanic/Latino (14 percent versus 19 percent nationally) are both below national averages. The percent of people living below the poverty level (19 percent) and those over 25 without a high school diploma (15 percent) are higher than the national averages (13 percent and 12 percent, respectively). The percent of people living in linguistic isolation is lower than the national average (4 percent versus 5 percent).

The results of the analysis of populations within 50 km of the 42 major source MCM facilities (see Table 2) indicate that, the percent population of people of color (being the total population minus the white population) is significantly lower than the national average (28 percent versus 40 percent). The percent of people living below the poverty level, those over 25 without a high school diploma, and people living in linguistic isolation are lower than the corresponding national averages.

A summary of the proximity demographic assessment performed for the major source MCM facilities is included as Table 2. The methodology and the results of the demographic analysis are presented in a technical report, *Analysis of Demographic Factors for Populations*

Living Near MCM Facilities, available in this docket for this action (Docket EPA-HQ-OAR-2018-0747).

Table 2. Proximity Demographic Assessment Results for Major Source MCM Facilities

Demographic Group	Nationwide	Population within 50 km of 42 Facilities	Population within 5 km of 42 Facilities
Total Population	328,016,242	34,082,528	1,500,328
	White and Minority by Percent		
White	60%	72%	59%
Minority	40%	28%	41%
	People of Color by Percent		
African American	12%	13%	20%
Native American	0.7%	0.3%	0.3%
Hispanic or Latino (includes white and nonwhite)	19%	8%	14%
Other and Multiracial	8%	6%	6%
	Income by Percent		
Below Poverty Level	13%	12%	19%
Above Poverty Level	87%	88%	81%
	Education by Percent		
Over 25 and without a High School Diploma	12%	9%	15%
Over 25 and with a High School Diploma	88%	91%	85%
	Linguistically Isolated by Percent		
Linguistically Isolated	5%	3%	4%

Notes:

- The nationwide population count, and all demographic percentages are based on the Census' 2015-2019 American Community Survey5-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km and 50 km of all facilities are based on the 2010 Decennial Census block populations.
- Minority population is the total population minus the white population.
- To avoid double counting, the "Hispanic or Latino" category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

The proposed changes to the NESHAP subpart HHHHH will improve human health exposures for populations in these demographic groups. The proposed changes will provide additional health protection for all populations, including communities already overburdened by pollution, which are often minority, low-income, and indigenous communities. The proposed

changes will have beneficial effects on air quality and public health for populations exposed to emissions from MCM facilities.

VI. Request for Comments

We solicit comments on this proposed action. In addition to general comments on this proposed action, we are also interested in receiving additional data that may improve the metal HAP assessment for this source category. We are specifically interested in receiving performance test results showing metal HAP emissions in this category. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Information should be submitted to the EPA's ERT website. The ERT website, *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert* provides more information on submitting data.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866: Regulatory Planning and 13563 Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposal have been submitted for approval to OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2115.09. You can find a copy of the ICR in the MCM Docket (Docket ID No. EPA-HQ-OAR-2018-0747), and it is briefly summarized here.

Respondents/affected entities: Facilities manufacturing surface coatings.

Respondent's obligation to respond: Mandatory (40 CFR part 63, subpart HHHHH).

Estimated number of respondents: In the year after the amendments are final, approximately 42 respondents per year would be subject to the NESHAP and no additional respondents are expected to become subject to the NESHAP during that period.

Frequency of response: The total number of responses in year 1 is 42, in year 2 is 13, and in year 3 is 13.

Total estimated burden: The average annual burden of the proposed amendments to the 42 MCM facilities over the first year if the amendments are finalized is estimated to be 1,720 hours (per year). The average annual burden to the Agency over the 3 years after the amendments are final is estimated to be 53 hours (per year). Burden is defined in 5 CFR 1320.3(b).

Total estimated cost: The average annual cost of the proposed amendments to the MCM facilities is $192,000 in labor costs in the first 3 years after the amendments are final. The average annual capital and operation and maintenance costs are $30,000. The total average annual Agency cost of the proposed amendments over the first 3 years after the amendments are final is estimated to be $2,500.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov*, Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are MCM facilities owned by small businesses. Two of the affected facilities are owned by small entities. However, since the costs associated with the proposed amendments for these two affected small entities are expected to be less than one percent of annual sales revenue per ultimate owner, there are no significant economic impacts on a substantial number of small entities from these proposed amendments. Details of this analysis are described in section V.D above and additional detail is provided in the economic impact memorandums associated with this action.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. No tribal facilities are known to be engaged in any of the industries that would be affected by this action (MCM). Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are documented in the *Miscellaneous Coating Manufacturing Risk Assessment Report*, in the MCM Docket.

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR part 51

This action involves technical standards. Therefore, the EPA conducted searches for the MCM NESHAP through the Enhanced National Standards Systems Network (NSSN) Database managed by the American National Standards Institute (ANSI). We also conducted voluntary consensus standards (VCS) organizations and accessed and searched their databases. We conducted searches for EPA Methods 5 and 29. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's referenced method, the EPA ordered a copy of the standard and reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA referenced methods. The EPA may reconsider determinations of impracticality when additional information is available for particular VCS.

No applicable VCS was identified for EPA Method 5 or EPA Method 29. The search identified one VCS that was potentially applicable for this rule in lieu of EPA Method 29. After reviewing the available standard, the EPA determined that the VCS identified for measuring

emissions of pollutants subject to emissions standards in the rule would not be practical due to lack of equivalency. Additional information for the VCS search and determination can be found in the memorandum, *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Miscellaneous Coatings Manufacturing Technology Review*, which is available in the docket for this action.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable VCS, and to explain why the EPA should use such standards in this regulation.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

As discussed in section V.E of this preamble, the assessment of populations in close proximity of MCM facilities shows no demographic groups that are higher than the national average and the proposed changes will provide health protection for all populations.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

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